

110TH CONGRESS
2D SESSION

H. CON. RES. 424

Calling on the Attorney General to protect the right to vote of every person in the United States by promptly and thoroughly investigating complaints of violations of the Voting Rights Act of 1965, the National Voter Registration Act of 1993, and the Help America Vote Act of 2002.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 23, 2008

Ms. WATERS (for herself, Mr. CONYERS, Mr. WATT, Mr. SCOTT of Virginia, Ms. CORRINE BROWN of Florida, Ms. JACKSON-LEE of Texas, Ms. LEE, Mr. BUTTERFIELD, Mr. PAYNE, Mr. GRIJALVA, Ms. WASSERMAN SCHULTZ, Mr. MEEKS of New York, Ms. MOORE of Wisconsin, Ms. NORTON, Mr. SERRANO, Mr. CLAY, Mr. CLEAVER, Mr. JACKSON of Illinois, Mr. DAVIS of Illinois, Mrs. CAPPS, Mr. FARR, Mr. LEWIS of Georgia, Ms. WOOLSEY, Mr. RUSH, Mrs. CHRISTENSEN, Mr. JOHNSON of Georgia, Mr. ELLISON, Mr. MCGOVERN, Ms. ZOE LOFGREN of California, and Mr. AL GREEN of Texas) submitted the following concurrent resolution; which was referred to the Committee on the Judiciary

CONCURRENT RESOLUTION

Calling on the Attorney General to protect the right to vote of every person in the United States by promptly and thoroughly investigating complaints of violations of the Voting Rights Act of 1965, the National Voter Registration Act of 1993, and the Help America Vote Act of 2002.

Whereas the 15th amendment to the Constitution provides the right to vote to citizens and prohibits the denial or

abridgement of this right based on race, color, or previous condition of servitude;

Whereas section 11(b) of the Voting Rights Act of 1965 provides that no person, acting under color of law or otherwise, shall intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce any person for voting or attempting to vote or otherwise intimidating or denying any eligible person from voting;

Whereas the Voting Rights Act of 1965 forbids any State or political subdivision to enact any election law to deny or abridge voting rights based on race or color;

Whereas the Voting Rights Act of 1965 prohibits any person, whether acting under color of law or otherwise, from failing or refusing to permit any qualified person from voting in general, special, or primary Federal elections, refusing to count the vote of a qualified person, or intimidating anyone attempting to vote or any one who is assisting a person in voting under provisions of the Voting Rights Act;

Whereas the Voting Rights Act of 1965, as amended in 1970, provides that a person otherwise qualified to vote shall not be denied the right to vote in a presidential election because of an extended duration residency requirement;

Whereas the Voting Rights Act of 1965, as amended in 1975, added section 203 to increase the participation of language minorities by requiring bilingual elections in certain circumstances;

Whereas as originally enacted, section 2 forbade any jurisdiction in the country to enact an election law that denies or abridges voting rights on account of race or color;

Whereas the 1975 amendments added minorities to this section as a protected class;

Whereas the Voting Rights Act of 1965, as amended in 1982, effectively overturned a 1980 United States Supreme Court ruling in *Mobile v. Bolden*, and modified the standard of legal review to allow certain voting rights violations under section 2 of the Voting Rights Act of 1965 to be proven by showing that an election law or procedure was adopted with a discriminatory purpose or had a discriminatory effect;

Whereas the National Voter Registration Act of 1993 prohibits voters from being removed from rolls of registered voters as an election is approaching and also prohibits States from engaging in any effort to systematically remove voters from the list of eligible voters unless that action was completed more than 90 days before the date of a Federal election and is applied in a nondiscriminatory manner that complies with the Voting Rights Act of 1965;

Whereas the Fannie Lou Hamer, Rosa Parks, and Coretta Scott King Voting Rights Reauthorization and Amendments Act of 2006 affirmed the existing statutory requirements and also prohibited any person, whether acting under color of law or otherwise, from failing or refusing to permit any qualified person from voting in general, special, or primary Federal elections, refusing to count the vote of a qualified person, or intimidating anyone attempting to vote or anyone who is assisting a person who is voting under provisions of the Act;

Whereas the Voting Rights Reauthorization and Amendments of 2006 clarified the standard under section 5 for determining whether certain covered States or jurisdictions

have enacted or seek to administer any voting qualification or prerequisite to voting, or standard, or practice, or procedure with respect to voting that either has the purpose or will have the effect of denying or diminishing the voting rights of United States citizens on account of race or color;

Whereas the revision also instituted a cause of action in the United States District Court for the District of Columbia for declaratory judgment;

Whereas under the Help America Vote Act of 2002, failure to provide a ballot to a voter seeking to exercise the right to vote is a violation of Federal law;

Whereas reports from throughout the United States indicate organized, systematic efforts targeting vulnerable populations, including residents displaced by foreclosure and victims of natural disasters, are underway to attempt to exclude, prevent, deter, and discourage eligible voters from exercising his or her right to vote;

Whereas complaints have been reported in Virginia, a State that is covered, in part, under section 5, alleging voter suppression schemes that have disseminated erroneous information regarding the impact of voter registration on students' eligibility for financial aid where they are enrolled in school;

Whereas such a systematic scheme by party or local officials to frustrate voters' ability to exercise his or her right to vote runs afoul of the goals of the Voting Rights Act of 1965;

Whereas complaints have been reported in Michigan of a plan to systematically challenge voters whose names appear on State lists of foreclosed properties in a voter suppression

scheme referred to as “Lose Your Home, Lose Your Vote”;

Whereas such a scheme would harass voters and potentially impair the rights of thousands of voters, many of whom are racial minorities;

Whereas evidence shows that a disproportionate number of persons impacted by the current foreclosure and housing crisis are African-American, Latino, minority, and low-income;

Whereas in 2008, there have been at least 739,000 people in the United States who have entered foreclosure proceedings that may have affected their residential status;

Whereas many of these people were targeted for predatory loans that loan originators knew or should have known were unaffordable to them over the life of the loan, particularly where the rate on the loan was scheduled to adjust after an initial teaser rate;

Whereas others, particularly the elderly, were targeted for reverse mortgages and refinancings that threatened the ownership of the homes in which they have resided for many years;

Whereas in 2008, thousands of people in the United States have had their residential status affected by Hurricanes and Tropical Storms Bertha, Dolly, Edouard, Fay, Gustav, Hanna, and Ike, as well as related floods and other natural disasters;

Whereas the payment of insurance claims and delivery of government assistance are often delayed for months, even years, and leaves displaced residents unable to return to their homes;

Whereas in Mississippi, efforts were made to place the selection for the special election for a United States Senate race near the bottom of the ballot among candidates for local office rather than near the top among the Federal races such as President and the other United States Senate race as required by State law in an attempt to cause the special election race to be overlooked;

Whereas a State judge has ruled that the race be placed higher on the ballot, in order to not disenfranchise voters, but that decision was appealed to the State Supreme Court, which subsequently ruled such ballot placement did not comply with the law;

Whereas complaints were reported in Maryland of fliers distributed in minority communities with erroneous election information, including incorrect election dates, for the purpose of suppressing minority voting participation;

Whereas numerous complaints of deceptive practices and voter intimidation have been reported in Florida in recent presidential elections, including—

- (1) purging the names, disproportionately of African-Americans, from certain county voting lists;
- (2) eliminating, in error, thousands of individuals from registration lists on grounds that they were felons;
- (3) failing to provide bilingual ballots or access to translators and language assistance;
- (4) intimidating voters on their way to the polls by using unauthorized traffic checkpoints near a voting precinct;
- (5) intimidating voters with inaccurate information that if they have not paid taxes or child support that they cannot vote;

(6) changing designated polling places without advance notice or without adequate notice to the community;

(7) sending voters from one precinct to another only for the individuals to find they were not on the registration lists or that it was too late to vote; and

(8) failing to send requested absentee ballots to individuals and then refusing to let these same individuals vote when they appeared at the precinct to vote;

Whereas in 2008, new complaints have been reported in Florida of a “No Match, No Vote” law which requires election officials to verify applicants’ drivers license numbers or the last four digits of their Social Security numbers by using government data bases and any errors, including simple typos, clerical errors, or even middle name changes, could lead to identification mismatches resulting in the invalidation of votes;

Whereas press reports indicate that this new Florida “No Match, No Vote” law will be enforced less than 30 days prior to the State’s October 6, 2008, registration deadline for the November 4, 2008, elections, and because Florida is subject to section 5 of the Voting Rights Act of 1965, a pre-clearance review under section 5 should be undertaken by the Department of Justice before this new law is enforced to ensure that thousands of voters, including minorities and the working poor, are not adversely affected or disenfranchised by this new law; and

Whereas, voter caging, or the selection of lists or databases of voters compiled for the purpose or intent of challenging voters, and other schemes relying on inaccurate, incomplete, incorrect, or otherwise misleading subject matter used to systematically challenge voters, when done

in a discriminatory manner, is a violation of section 2 of the Voting Rights Act of 1965: Now, therefore, be it

1 *Resolved by the House of Representatives (the Senate*
 2 *concurring)*, That Congress calls on the Attorney General
 3 to—

4 (1) protect the right to vote of every person in
 5 the United States by promptly and thoroughly inves-
 6 tigating complaints of violations of the Voting
 7 Rights Act of 1965, the National Voter Registration
 8 Act of 1993, and the Help America Vote Act of
 9 2002;

10 (2) exercise all the authorities and utilize all the
 11 resources provided by Congress to fully enforce Fed-
 12 eral voting and civil rights statutes;

13 (3) enjoin any efforts by individuals or organi-
 14 zations to violate Federal voting and civil rights
 15 statutes by means of intimidation, suppression, or
 16 deceptive practices and to ensure that no eligible
 17 voter is denied the right to vote on November 4,
 18 2008, or in any early voting periods prior to Novem-
 19 ber 4, 2008, including voting by mail and absentee
 20 ballots; and

21 (4) prosecute those who violate Federal voting
 22 and civil rights statutes to the fullest extent of the
 23 law.

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